IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 352 OF 2005
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M/s Sadanand Lubricants & Anr. ... Applicants

V/s

Hindustan Petroleum Corpn. & Anr. ... Respondents

Shri Kuldeep S. Patil for applicants

Shri A.S. Shitole, APP for the State

Coram : V.M. Kanade,J.

Dated : 05/04/2005.

P.C. :-

1 I have heard the learned counsel for the applicants and APP for the State.

2 The applicants are challenging the order of J.M.F.C.Pune passed on the complaints filed under section 138 of Negotiable Instruments Act by the complainants. It is contended by the learned counsel for the applicants that total amount due in all three applications is to the tune of Rs.14,90,085.13. In the letter dated 01/10/2003 which was written by the applicants it is stated that the complainant had encashed the bank guarantee of Rs.8 lakhs and balance amount which was to be paid by the accused comes to Rs.6,90,085.13. In the said letter it was mentioned that an amount of Rs.3 lakhs would be raised by

selling Tata vehicle.However, neither Tata vehicle was sold nor the amount was paid by the applicants. Time of 2 week was given by this court by an order dated 28/02/2005 to deposit the balance amount. However, till date the balance amount has not been paid. It is contended by the applicants that notice which was issued was composite notice and, therefore, complaint was not maintainable. It is further submitted that since a bank guarantee was encashed by the complainant, the complaint is not maintainable. It is not possible to accept the submission made by the learned counsel for the applicants. All the questions raised in these applications are kept open. The trial court to consider all the questions on merits and in accordance with law. Liberty may be given to the applicants to deposit balance amount. Accordingly, all three applications are, therefore, dismissed. Interim order is vacated.

(V.M. Kanade,J.)